

§ 1232.5

accomplishment of the objectives of the recipient's program or activity with respect to handicapped persons, or

(iii) That perpetuate the discrimination of another recipient if both recipients are subject to common administrative control or are agencies of the same state.

(4) A recipient may not, in determining the site or location of a facility, make selections:

(i) That have the effect of excluding handicapped persons from, denying them the benefits of, or otherwise subjecting them to discrimination under any program or activity that receives federal financial assistance or

(ii) That have the purpose or effect of defeating or substantially impairing the accomplishment of the objectives of the program or activity with respect to handicapped persons.

(c) The exclusion of nonhandicapped persons from aid, benefits, or services limited by federal statute or executive order to handicapped persons or the exclusion of a specific class of handicapped persons from aid, benefits, or services limited by federal statute or executive order to a different class of handicapped persons is not prohibited by this part.

(d) Recipients shall administer programs or activities in the most integrated setting appropriate to the needs of qualified handicapped persons.

(e) Recipients shall take appropriate steps to ensure that communications with their applicants, employees, volunteers and beneficiaries are available to persons with impaired vision and hearing.

(f) Recipients shall take appropriate steps to insure that no handicapped individual is denied the benefits of, excluded from participation in, or otherwise subjected to discrimination in any program or activity receiving Federal financial assistance from ACTION because of the absence of auxiliary aids for individuals with impaired sensory, manual, or speaking skills.

[44 FR 31018, May 30, 1979, as amended at 68 FR 51388, Aug. 26, 2003]

§ 1232.5 Assurances required.

(a) An applicant for Federal financial assistance to which this part applies shall submit an assurance, on a form

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specified by the Director, that the program or activity will be operated in compliance with this part. An applicant may incorporate these assurances by reference in subsequent applications to ACTION. The assurance will obligate the recipient for the period during which Federal financial assistance is extended.

(b) In the case of Federal financial assistance extended to provide personal property, the assurance will obligate the recipient for the period during which it retains ownership or possession of the property.

(c) A recipient operating a program or activity under which volunteers are assigned to a number of work stations shall obtain an assurance from each work station that neither volunteers nor the beneficiaries they serve will be discriminated against on the basis of handicap.

[44 FR 31018, May 30, 1979, as amended at 68 FR 51388, Aug. 26, 2003]

§ 1232.6 Notice.

Recipients shall take appropriate initial and continuing steps to notify participants, beneficiaries, applicants, volunteers and employees, including those with impaired vision or hearing, that it does not discriminate on the basis of handicap in violation of section 504 and this part.

§ 1232.7 Remedial action, voluntary action and self-evaluation.

(a) *Remedial action.* (1) If the Director finds that a recipient has discriminated against persons on the basis of handicap in violation of section 504 or this part, the recipient shall take such remedial action as the Director deems necessary to overcome the effects of the discrimination.

(2) Where a recipient is found to have discriminated against persons on the basis of handicap in violation of section 504 or this part and where another recipient exercises control over the recipient that has discriminated, the Director, where appropriate, may require either or both recipients to take remedial action.

(3) The Director may, where necessary to overcome the effects of discrimination in violation of section 504

or this part, require a recipient to take remedial action:

(i) With respect to handicapped persons who are no longer participants in the recipient's program or activity but who were participants in the program or activity when such discrimination occurred or

(ii) With respect to handicapped persons who would have been participants in the program or activity had the discrimination not occurred, or

(iii) With respect to handicapped persons presently in the program or activity, but not receiving full benefits or equal and integrated treatment within the program or activity.

(b) *Voluntary action.* Recipient may take steps, in addition to any action that is required by this part, to overcome the effects of conditions that resulted in limited participation in the recipient's program or activity by qualified handicapped persons.

(c) *Self-evaluation.* (1) Each recipient shall, within one year of the effective date of this part, conduct a self-evaluation of its compliance with Section 504, with the assistance of interested persons, including handicapped persons or organizations representing handicapped persons. Each recipient shall with the assistance of and consultation with interested persons, including handicapped persons, evaluate its current policies, practices and effects thereof; modify any that do not meet the requirements of this part; and take appropriate remedial steps to eliminate the effects of any discrimination that resulted from adherence to these policies and practices.

(2) A recipient that employs fifteen or more persons shall, for at least three years following completion of the evaluation required under paragraph (c)(1) of this section, maintain on file, make available for public inspection, and provide to the Director upon request:

(i) A list of the interested persons consulted,

(ii) A description of areas examined and any problems identified, and

(iii) A description of any modifications made and of any remedial steps taken.

[44 FR 31018, May 30, 1979, as amended at 68 FR 51388, Aug. 26, 2003]

§ 1232.8 Effect of state or local law.

The obligation to comply with this part is not obviated or alleviated by the existence of any state or local law or other requirement that, on the basis of handicap, imposes prohibitions or limits upon the eligibility of qualified handicapped persons to receive services or to practice any occupation or profession.

Subpart B—Employment and Volunteer Service Practices

§ 1232.9 General prohibitions against employment and volunteer service discrimination.

(a) No qualified handicapped person shall, on the basis of handicap, be subjected to discrimination in employment or volunteer service under any program or activity that receives federal financial assistance.

(b) A recipient shall make all decisions concerning employment or volunteer service under any program or activity to which this part applies in a manner which ensures that discrimination on the basis of handicap does not occur and may not limit, segregate, or classify applicants or employees or volunteers in any way that adversely affects their opportunities or status because of handicap.

(c) The prohibition against discrimination in employment and volunteer service applies to the following activities:

(1) Recruitment, advertising, and the processing of applications for employment or volunteer service;

(2) Hiring, upgrading, promotion, award of tenure, demotion, transfer, layoff, termination, right of return from layoff, and rehiring;

(3) Rates of pay or any other form of compensation and changes in compensation;

(4) Job assignments, job classifications, organizational structures, position descriptions, lines of progression, and seniority lists;

(5) Leaves of absence, sick leave, or any other leave;

(6) Fringe benefits available by virtue of employment or volunteer service, whether or not administered by the recipient;